

## **Remarks**

### **I. Interview Summary**

Applicant wishes to thank the Examiner for considering the issues raised in the July 9, 2008 Office Action during the interview on November 5, 2008. During the interview, the Examiner and Applicant's attorney discussed the cited prior art and claim amendments that would distinguish the prior art. The claim amendments discussed in the interview are reflected above. The remainder of the substance of the interview is further reflected below. Applicant believes the application is now in a condition for allowance and appreciates the Examiner's due consideration of the amendments above and the following comments.

### **II. Introduction**

Claims 40-47, 49, 50, and 73-90 are pending in the application, including independent claims 40, 78, 84, and 90. In the Office Action dated July 21, 2008, claims 40-47, 49, 50, and 73-90 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6,080,191 ("Summers") in view of U.S. Pat. No. 6,143,022 ("Shull"), U.S. Pat. No. 5,123,917 ("Lee"), and U.S. Pat. No. 5,951,599 ("McCrary").

Applicant has carefully considered the Examiner's comments. In order to expedite prosecution of Applicant's claims, claims 40, 78, 84, and 90 have been amended. Applicant respectfully requests reconsideration and withdrawal of the rejections in light of the amendments to the claims and the following remarks.

### III. The Proposed Combination Does Not Render Independent Claims 40, 78, 84, and 90 Unpatentable.

Independent claims 40, 78, 84, and 90 were rejected as being unpatentable over Summers in view of Shull, Lee, and McCrory. As amended, each of claims 40, 78, 84, and 90 recites in part:

wherein a graft material is secured to a support frame by folding one end of said graft material around one of said frame threads and along an inner surface of the support frame thereby having an area of double thickness of two layers of said **same graft material** and affixing said two layers to each other without connecting said graft material to said one of said frame threads and folding an opposite end of said graft material around another of said frame threads and along the inner surface of the support frame thereby having an area of double thickness of two layers of said graft material and affixing said two layers to each other without connecting said graft material to said another of said frame threads, **said two layers remaining affixed to each other even after said intraluminal support device is deployed in said body vessel.**

The combination of Summers, Shull, Lee, and McCrory as contemplated by the Examiner fails to disclose at least these elements.

In the present Office Action, the Examiner has acknowledged that Summers fails to disclose “the specific means of attaching the graft to the stent frame [recited in the claims].” Office Action of July 9, 2008, p.2. Specifically, Summers fails to disclose securing a graft material to a support frame by folding one end of the graft around one of the frame threads and along an inner surface of the support frame thereby having an area of double thickness of two layers of said graft material and affixing said two layers to each other without connecting said graft material to said one of said frame threads and folding an opposite end of said graft material around another of said frame threads and along the inner surface of the support frame thereby having an area of double thickness of two layers of said graft material and affixing said two layers to each other without connecting said graft material to said another of said frame threads. Summers also fails to disclose securing a graft material to a support frame by affixing two layers of the same graft material to each other such

that the **two layers remain affixed to each other even after said intraluminal support device is deployed in said body vessel**, as recited in amended claims 40, 78, 84, and 90.

In an effort to cure Summer's deficiency of not disclosing securing a graft material to a support frame by folding one end of said graft around one of said frame threads and along an inner surface of said support frame thereby having an area of double thickness of two layers of said graft material and affixing said two layers to each other without connecting said graft material to said one of said frame threads and folding an opposite end of said graft material around another of said frame threads and along said inner surface of said support frame thereby having an area of double thickness of two layers of said graft material and affixing said two layers to each other without connecting said graft material to said another of said frame threads, the Examiner has cited Shull. However, Shull fails to disclose, and actually teaches away from the above-recited elements of amended claims 40, 78, 84, and 90. Accordingly, it is improper to combine Shull with Summers, Lee, and McCrory as contemplated by the Examiner.

Shull is directed to a cylindrical stent having a radially distensible graft member that is applied over the outer surface of the stent and folded invertedly around the ends of the stent thereby extending into the annular space within the stent and defining a luminal surface. Col. 5, ll. 7-16; Col. 6, ll. 56-60. Before deployment, the graft member has a length that is greater than the length of the stent. Because the ends of the graft are not connected to the stent, a suture is placed in the central section of the stent to ensure that the graft remains well-centered over the stent during deployment. Col. 6, ll. 58-60; Col. 5, ll. 2-22; Figs. 2, 3. Upon deployment (expansion of the stent), the graft member foreshortens between 20 and 50 percent of its primary or initial length. This change in the length of the graft causes it to unfold and pull away from the inner diameter of the stent such that the graft no longer covers the ends of the stent when deployment is complete. Col. 5, ll. 16-20; Col. 6, ll. 61-66; Figs. 2, 3. Because the graft member is designed to stretch and shorten during deployment, the ends of the graft member must be free to unfold and move relative to the stent to allow the

stent to be expanded. Thus, Shull teaches a radially distensible graft member having ends that are folded over the outer edges of the stent, but that must be free to unfold during deployment. Consequently, Shull actually teaches away from securing a graft to a support frame by folding one end of said graft material around one of said frame threads and along an inner surface of said support frame thereby having an area of double thickness of two layers of said **same graft material** and affixing said two layers to each other without connecting said graft material to said one of said frame threads and folding an opposite end of said graft material around another of said frame threads and along said inner surface of said support frame thereby having an area of double thickness of two layers of said graft material and affixing said two layers to each other without connecting said graft material to said another of said frame threads, **said two layers remaining affixed to each other even after said intraluminal support device is deployed in said body vessel**, as recited in amended claim 1. Indeed, if the graft member of Shull were to be secured to itself as recited in amended claim 1, it would prevent the stent from expanding and render the entire stent/graft device inoperable. Such modifications or combinations of prior art are improper and not sufficient to render the claims *prima facie* obvious. See MPEP § 2143.01.

Like Summers and Shull, Lee and McCrory also fail to teach or suggest a graft material secured to a support frame by folding one end of said graft material around one of said frame threads and along an inner surface of said support frame thereby having an area of double thickness of two layers of said **same graft material** and affixing said two layers to each other without connecting said graft material to said one of said frame threads and folding an opposite end of said graft material around another of said frame threads and along said inner surface of said support frame thereby having an area of double thickness of two layers of said graft material and affixing said two layers to each other without connecting said graft material to said another of said frame threads, **said two layers remaining affixed to each other even after said intraluminal support device is deployed in said body vessel**, as recited in amended claims 40, 78,

84, and 90. For at least this reason, and because the proposed combination of Summers, Shull, Lee, and McCrory is improper, the combination of Summers, Shull, Lee, and McCrory as contemplated by the Examiner does not render independent claims 40, 78, 84, and 90, or any claim that depends therefrom, unpatentable.

## **VII. Conclusion**

Applicants submit that the claims, as amended, patentably distinguish over the art of record. Applicants earnestly request expedited consideration and allowance of this application.

Respectfully submitted,

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